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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,365	Applicant(s) SUGAWARA, NAOKI
	Examiner Myles D. Robinson	Art Unit 2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 January 2010.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 - 8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 - 8 and 10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 January 2010 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/06)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment was received on 1/28/2010, and has been entered and made of record. Currently, **claims 1 – 8 and 10** are pending.

Response to Arguments

2. Applicant's arguments (see *Remarks 1/28/2010*) have been fully considered but they are not persuasive.

Regarding **claims 1, 8 and 10**, the Applicant argues that **Sugita et al.** (U.S. Patent No. 5,570,205) in view of **Kawasaki** (Japanese Patent No. 07-283894) does not disclose, teach or suggest a conveying mechanism automatically switching from conveying the original sheet (e.g. for scanning when initiating facsimile transmission) to conveying the recording sheet (e.g. for printing during facsimile reception) after the reading means completes reading of the original sheet and the first communication means completes the reception of the first image (see *Remarks 1/28/2010 [pages 17 – 18]*).

However, Kawasaki does explicitly disclose automatically switching from the conveyance of the original copy sheet during facsimile transmission to the resumption of the printing sheets of a facsimile reception (see *Drawing 1 wherein main control section 1 performs the following: 1) interrupts print operation of printer 6 during facsimile reception [paragraph 0016], 2) instructs image reading part 5 to scan manuscript to initiate facsimile transmission [paragraph 0017], 3) temporarily stores scanned fax data*

in memory 4 to be transmitted [paragraph 0018], and 4) resumes interrupted printing of received facsimile job after completely scanning manuscript for transmission [Abstract, paragraphs 0019 and 0024].

In addition, Kawasaki teaches that main control part 1 (e.g. CPU) performs the operation processing in connection with ROM 9a, 9b (see *Drawing 1 [paragraph 0012]*) wherein the CPU performs "concrete control action" (e.g. automatic, user-friendly manner) so that switches S1, S2 can connect freely receive and transmit facsimile jobs simultaneously (*Abstract, paragraphs 0005, 0013 – 0014 and 0024*). Kawasaki also teaches that the CPU performs in such a manner that the user does not need to be present beside facsimile machine after performing the operation switch in step 101, which suggests to one of ordinary skill in the art that disclosed procedures are performed automatically (see *Drawing 2 [paragraph 0020]*). The Examiner asserts and maintains that the prior art processor taught by Kawasaki, in its normal and usual operation, would necessarily perform the automatic method claimed. See MPEP 2112.02.

Furthermore, with the duly noted exception of automation, the Applicant has already pointed out that Sugita teaches the necessary structure of that of the apparatus claims (see *Remarks 1/28/2010 [page 18]*). A prima facie case of either anticipation or obviousness has been established whenever the claimed and prior art apparatuses are identical or substantially identical in structure. While features of an apparatus may be recited either structurally or functionally, apparatus claims must be distinguished from the prior art in terms of structure rather than function. A claim containing a recitation

with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. See MPEP 2112.01 I and 2144.

While the Applicant argues that the automation of the amended claims should overcome the manual activity taught by Sugita, the Examiner argues that broadly providing automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. See MPEP 2144.04 III.

Therefore, the Applicant's arguments regarding claims 1, 8 and 10 are considered not persuasive. Please cite rationale of the grounds of rejection below for further explanation.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 12/5/2003. It is noted, however, that applicant has not filed a certified copy of the JP-2003-407977 application as required by 35 U.S.C. 119(b) (see *Office Action 8/28/2009 [page 2]*).

Drawings

4. The drawings were received on 1/28/2010. These drawings are unacceptable. The unmentioned reference characters 17 and 18 remain unaddressed in replacement

sheet for Fig. 3. In addition, the unmentioned reference character S709 remains unaddressed as the replacement sheet for the specification adds the already mentioned reference character S719 instead.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference characters 17 and 18 (Fig. 3) and reference character S709 (Fig. 7B). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) is required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The amended abstract was received on 1/28/2010. These amendments are acceptable.

Claim Objections

7. The following quotation of 37 CFR 1.75(a) is the basis of the objection:
 - (a) The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery.
8. **Claim 1 – 7** are objected to under 37 CFR 1.75(a) as failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention or discovery.

Claim 1 recites the limitation "recording the first image on a recording sheet by said recording means" in line 17 of the claim after the limitation "a recording sheet" for recording the first image was claimed in line 7 of the claim. The applicant has failed to particularly point out and distinctly claim if the applicant is referring to ***the same, instant*** "recording sheet" or ***a unique and distinctly different*** "recording sheet" within the claim. All claims dependent upon this claim suffer the same deficiency and, therefore, are objected to as well.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
10. **Claims 1, 2 and 4 – 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sugita et al.** (U.S. Patent No. 5,570,205) in view of **Kawasaki** (Japanese Patent No. 07-283894).

Referring to **claim 1**, Sugita discloses an image communication apparatus comprising:

first communication means for receiving first image data (see Figs. 6 and 10 wherein control circuit 35 controls the reception operation of information being transmitted in step S'1 [Abstract and column 5, lines 25 – 35]),

first accumulating means for accumulating in a memory the first image data received by said first communication means (see Figs. 6 and 10 wherein control circuit 35 controls the reception operation of information being transmitted in step S'1 [column 5, lines 25 – 35] and wherein control circuit 35 inherently discloses a memory [e.g. register, page buffer, RAM, etc.] to accumulate image data while printing received image data),

recording means for recording on a recording sheet the first image data accumulated by said first accumulating means in the memory (see Fig. 6, printer 22 [Abstract, column 3, lines 13 – 28 and column 5, lines 15 – 19] and see Fig. 10 wherein control circuit 35 causes printer 22 to print received image being transmitted in step S'3 [Abstract and column 5, lines 44 – 47]),

reading means for reading an original and obtaining second image data (see Figs. 2 and 6 wherein read sensor R1 reads original sheet 12 [Abstract, column 2, line 61 – column 3, line 9]),

second communication means for transmitting the second image data obtained by said reading means (see Figs. 6 and 7 wherein control circuit 35 controls the

transmitting operation of original image from sheet 12 in step S₁₄ [Abstract and column 4, lines 20 – 23 and 58 – 60]),

transmitting instruction means for instructing reading of the original sheet and transmission of the second image data by said communication means (see Figs. 6 – 7 wherein an operator presses original read instruction switch 33 in step S₁ [column 4, lines 32 – 36] to initiate the scanning of original sheet 12 in steps S₃ – S₁₃ [column 4, lines 36 – 58] and subsequently initiate the transmission operation of the original image in step S₁₄ [column 4, lines 58 – 60] when selecting one of a transmitting or receiving modes [Abstract]),

a medium conveying mechanism used in reading the original sheet by said reading means and obtaining the second image data and in recording the first image on a recording sheet by said recording means (see Figs. 2, 6, 7 and 10 wherein driving pulse motor 37 drives driving rollers 13 – 15 to convey original sheet 12 along a common carrier path 11 [Abstract, column 2, lines 1 – 3, 42 – 67 and column 5, line 66 – column 6, line 8] for both reading operations [i.e. scanning, copying] in steps S₂ – S₉ [column 4, lines 32 – 48] and recording operations [i.e. printing] in steps S'₂ - S'₁₁ [column 5, lines 31 – 56]), and

control means for controlling first communication means, second communication means, reading means, first accumulating means, recording means, and medium conveying mechanism of said image communication apparatus (see Figs. 6 – 8 and 10, control circuit 35 [column 4, lines 10 – 31 and column 5, lines 19 – 24]) but does not explicitly disclose the apparatus further comprising control means for controlling said

image communication apparatus in such a way that in a case where said transmitting instruction means instructs the reading of the original sheet and transmitting of the second image while said first communication means receives the first image data and said first accumulating means accumulates the first image data, said reading means reads the original sheet and obtains the second image data while said first communication means receives the first image data, and before said recording means records the first image data on the recording sheet, said recording means records the first image data on the recording sheet while said second communication means transmits the second image data, and said conveying mechanism automatically switches from conveying the original sheet to conveying the recording sheet after said reading means completes the reading of the original sheet and said first communication means completes the reception of the first image data.

Kawasaki discloses the facsimile machine (*see Drawing 1, facsimile equipment F*), comprising:

*first communication means for receiving first image data (*see Drawing 1 wherein facsimile communication control 2 communicates via communication line L [paragraph 0012]*),*

*first accumulating means for accumulating in a memory the first image data received by said first communication means (*see Drawing 1 wherein facsimile reception is performed by facsimile communication control 2 in conjunction with one of decoding circuits 3a, 3b using switch S1 [paragraphs 0012 – 0013]*),*

recording means for recording on a recording sheet the first image data accumulated by said first accumulating means in the memory (see Drawing 1 wherein printer control part 6a controls printer 6 via decoding circuit 3b to record printout [Abstract and paragraphs 0012 – 0013]),

reading means for reading an original sheet and obtaining second image data (see Drawing 1, image reading part 5 [paragraph 0012]),

second communication means for transmitting the second image data obtained by reading means (see Drawing 1 wherein facsimile communication control 2 communicates via communication line L wherein facsimile transmission is performed by facsimile communication control 2 in conjunction with image reading part 5 and one of decoding circuits 3a, 3b using switch S2 [paragraphs 0012 – 0013]),

transmitting instruction means for instructing reading of the original sheet and transmission of the second image data by said second communication means (see Drawing 1 wherein the user sets the desired original onto the platen and operates a prescribed switch for command [e.g. operation input section 8, a start key displayed by indicator 7] for command of transmission reservation whenever the user desires facsimile transmission [Abstract paragraphs 0012 and 0015]),

a first medium conveying mechanism used in recording the first image on a recording sheet by said recording means (see Drawing 1, printer 6),

a second medium conveying mechanism used in reading the original sheet by said reading means and obtaining the second image data (see Drawing 1, image reading part 5), and

control means (see *Drawing 1, main control part 1, ROM 9a, RAM 9b [Abstract and paragraph 0012]*) for controlling said image communication apparatus in such a way that in a case where said transmitting instruction means instructs the reading of the original sheet and transmitting of the second image while said first communication means receives the first image data and said first accumulating means accumulates the first image data (see *Drawing 1 wherein the user can perform facsimile transmission by inputting facsimile number of transmission destination and pressing the START key even in the midst of receiving image data from an external facsimile machine into memory 4 for printing at printer 6 [paragraphs 0014 – 0015]*).

said reading means reads the original sheet and obtains the second image data while said first communication means receives the first image data, and before said recording means records the first image data on the recording sheet (see *Drawing 1 wherein main control part 1 instructs image reading part 5 to scan manuscript for facsimile transmission while simultaneously performing facsimile reception from external facsimile machine using decoding circuits 3a, 3b [Abstract, paragraphs 0005, 0013, 0017 and 0024]*).

said recording means records the first image data on the recording sheet while said second communication means transmits the second image data (see *Drawing 1 wherein main control part 1 temporarily stores the read image data from image reading part 5 in memory 4 before transmitting read image data during idle status [paragraph 0018] and then instructs printer 6 to resume the previously printing of the facsimile*

reception after image reading part 5 has completely scanned and stored image data for transmission [Abstract and paragraph 0019]), and

said conveying mechanism automatically switches from conveying the original sheet to conveying the recording sheet after said reading means completes the reading of the original sheet and said first communication means completes the reception of the first image data (see *Drawing 1 wherein main control part 1 instructs printer 6 to resume the previously printing of the facsimile reception after image reading part 5 has completely scanned and stored image data for transmission [Abstract and paragraph 0019]* and see *Drawing 2 wherein main control part 1 operates procedures in such a manner that a user does not need to be beside the facsimile machine any longer after performing step 101 while performing "concrete control actions" [e.g. automation] [paragraph 0020]*).
_

Sugita and Kawasaki are combinable because they are from the same field of endeavor, being facsimile systems. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Sugita by including simultaneous reception and transmission of facsimile messages. The suggestion/motivation for doing so would have been to make for a more user friendly system and to save the user time of waiting until all the pages of a received fax job have printed in order to initiate sending a fax job, as suggested by Kawasaki (*Abstract, paragraphs 0002, 0005, 0023 and 0024*). See MPEP 2143 G.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kawasaki to include consolidation of two separate

conveying mechanisms for scanning and another for printing into one common conveying mechanism for both scanning and printing. The suggestion/motivation for doing so would have been to optimize space and to reduce production costs by miniaturization of the facsimile unit, as suggested by Sugita (*Abstract, column 1, lines 13 – 21, 55 – 60 and column 2, lines 1 – 3*). See MPEP 2143 G.

Furthermore, one of ordinary skill in the art would have recognized that applying the known facsimile technique taught by Kawasaki to the base facsimile device taught by Sugita would have yielded predictable results and resulted in an improved facsimile system based upon the suggestions/motivations provided above. See MPEP 2143 D.

Automated switching is considered as functional language directed to an apparatus claim. A *prima facie* case of either anticipation or obviousness has been established whenever the claimed and prior art apparatuses are identical or substantially identical in structure. While features of an apparatus may be recited either structurally or functionally, apparatus claims must be distinguished from the prior art in terms of structure rather than function. A claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. See MPEP 2112.01 I and 2144.

Referring to **claim 2**, Kawasaki discloses the apparatus further comprising second accumulating means for accumulating the image read by said reading means in the memory,

wherein said control means controls in such a way that said second accumulating means performs a memory accumulating operation of the second image data before said recording means performs recording of the first image data in a case in which said transmitting instruction means issues an instruction for transmitting the second image data when said first communication means receives the first image data and the first accumulating means performs the memory accumulating of the first image data (see *Drawing 1 wherein switches S1,S2 toggles between either one of decoding circuits 3a, 3b to freely connect to image reading part 5 for scanning images or facsimile communication control for transmission/reception of fax jobs whenever either one of circuits 3a, 3b is in an idle state* [paragraphs 0013 – 0019]).

Referring to **claim 4**, Kawasaki discloses the apparatus further wherein said control means controls in such a way that the memory accumulating operation of the first image data by said first accumulating means and the reading of the original sheet and obtaining of the second image data to be transmitted are performed in parallel (see *Drawing 1 wherein decoding circuits 3a, 3b allow for parallel, simultaneous performance* [paragraphs 0002, 0005, 0021, 0024 and 0025]).

Referring to **claim 5**, Kawasaki discloses the apparatus further wherein said control means controls in such a way that the memory accumulating operation of the first image data by said first accumulating means and the memory accumulation operation of the second image data by said second accumulating means are performed in parallel (see *Drawing 1 wherein decoding circuits 3a, 3b allow for parallel, simultaneous performance* [paragraphs 0002, 0005, 0021, 0024 and 0025]).

Referring to **claim 6**, Kawasaki discloses the apparatus further wherein, after completion of the memory accumulating operation of the first image data by said first accumulating means, the transmitting of the second image data by said second communication means is started, and after completion of the reading of the original sheet and obtaining of the second image data by said reading means, said recording means operates to record the first image data, and said control means controls in such a way that the transmitting of the second image data and the recording of the first image data are performed in parallel (*see Drawing 1 wherein decoding circuits 3a, 3b allow for parallel, simultaneous performance [paragraphs 0002, 0005, 0021, 0024 and 0025]*).

Referring to **claim 7**, Kawasaki discloses the apparatus further wherein, when said transmitting instruction means issues an instruction for transmitting the second image data while a plurality of pages are being recorded, recording of the plurality of pages is temporarily interrupted before completion of recording, and after the completion of the reading of the original sheet by said reading means instructed by said transmitting instruction means and the accumulation thereof into said memory by said second accumulating means, recording of the plurality of pages is resumed (*see Drawing 1 wherein the printing operation of a received fax job from an external facsimile equipment [not shown] is temporarily interrupted during the reception operation of the received job transmitted to facsimile equipment F whenever the user desires to initiate a fax job for reading and transmission at the same facsimile equipment F, and whenever the reading and transmission of user-initiated fax job from facsimile equipment F has concluded, facsimile equipment F subsequently resumes printing of the interrupted*

received fax job from an external facsimile equipment [Abstract and paragraphs 0014 – 0019]).

Referring to **claim 8**, the rationale provided in the rejection of claim 1 is incorporated herein. In addition, the machine of claim 1 performs the method of claim 8.

Referring to **claim 10**, the rationale provided above in rejection of claim 8 is incorporated herein. The method of claim 8 is stored as a program of instructions of claim 10 within memory and executed by one or more processors (see *Sugita* [see Fig. 6, control circuit 35 [column 4, lines 16 - 19]] and see *Kawasaki* [see Drawing 1, main control part 1, ROM 9a, RAM 9b [paragraph 0012]]).

11. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Sugita et al.** (U.S. Patent No. 5,570,205) in view of **Kawasaki** (Japanese Patent No. 07-283894) and further in view of **Dixon et al.** (U.S. Patent No. 3,688,032).

Referring to **claim 3**, Sugita and Kawasaki discloses the apparatus as discussed above in the rejection of claim 1 but does not explicitly disclose the apparatus further comprising moving means for moving said reading means to a reading position when said reading means reads the original sheet, and for moving said reading means to a retracted position when the reading of the original sheet is completed.

Dixon discloses the apparatus comprising moving means for moving said reading means to a reading position when said reading means reads the original sheet, and for moving said reading means to a retracted position when the reading of the original sheet is completed (see *Figs. 1 – 3 wherein facsimile transmitter 25 having a scanning*

mechanism 26 movable from left to right across a document 27 for scanning and fax transmission [Abstract, column 1, lines 12 – 19, column 2, line 64 – column 3, line 8, column 3, lines 15 – 31, 44 – 50 and column 3, line 62 – column 4, line 27].

Sugita, Kawasaki and Dixon are combinable because they are from the same field of endeavor, being facsimile systems. One of ordinary skill in the art would have recognized that applying the known facsimile technique taught by Dixon to the base facsimile systems taught by Sugita and Kawasaki would have yielded predictable results and resulted in an improved facsimile system. See MPEP 2143 D.

Furthermore, one of ordinary skill in the art could have substituted the known static reading means taught by Sugita and Kawasaki for movable reading means taught by Dixon, and the results of the substitution would have been predictable. See MPEP 2143 B.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Myles D. Robinson whose telephone number is (571)272-5944. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler L. Haskins can be reached on (571) 272-7406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Myles D. Robinson/
Examiner, Art Unit 2625
4/16/10

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Supervisory Patent Examiner, Art Unit 2625